

SECTION III—REMARKS

This amendment is submitted in response to the Office Action mailed October 4, 2005. Claims 1-5, 7-16 and 18-19 are cancelled and new claims 24-41 are added. Claims 24-41 remain pending in the application. Applicants respectfully request reconsideration of the application and allowance of all pending claims in view of the above amendments and the following remarks.

Claim Objections

The Examiner objected to claims 15 and 18 under 37 C.F.R. § 1.75(c) for being of improper dependent form because they fail to further limit the subject matter of a previous claim. Applicants respectfully submit that the Examiner's objections are rendered moot by the cancellation of these claims.

Rejections Under 35 U.S.C. § 112

The Examiner rejected claim 18 under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as their invention. Applicants respectfully submit that the Examiner's rejection is rendered moot by the cancellation of the claim.

Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 1-5, 7-16, 18 and 19 under 35 U.S.C. § 103(a) as obvious in view of, and therefore unpatentable over, combinations of the following references: U.S. Patent No. 6,150,223 to Chern *et al.* ("*Chern*"); U.S. Patent No. 5,976,991 to Laxman *et al.* ("*Laxman*"); and U.S. Patent No. 6,235,597 to Miles ("*Miles*").

As to claims 1-5, 7-16, 18 and 19, Applicants respectfully submit that the Examiner's rejections are rendered moot by the cancellation of these claims.

As to new claims 24-41, Applicants respectfully traverse the Examiner's rejections. To establish a *prima facie* case of obviousness, three criteria must be met: (1) the prior art references must teach or suggest all the claim limitations; (2) some suggestion or motivation to combine the references must be found in the prior art; and (3) there must be a reasonable expectation of success. MPEP § 2143. As explained below, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness.

New claim 24 recites a process combination including forming at least one gate electrode over a substrate, forming a first silicon oxide layer, a silicon nitride layer, and a second silicon oxide layer, and etching the first and second silicon oxide films and the silicon nitride film to form a two-part spacer, wherein the spacer includes "a first L-shaped part abutting the substrate and a sidewall of the gate electrode, and a second L-shaped part nested in the first L-shaped part." *Chern* discloses a spacer 22D, but this spacer has only a single portion that does not abut the sidewall of the gate electrode. *Miles* similarly discloses a spacer 5 that has only one part and does not abut the gate electrode; *Miles* therefore cannot cure the deficiency of *Chern*. Finally, *Laxman* discloses nothing whatsoever about spacers and therefore cannot cure the deficiencies of *Chern* and *Miles*. For the above reasons, Applicants submit that *Chern*, *Laxman* and *Miles* cannot obviate claim 24 and respectfully request withdrawal of the rejection and allowance of the claim.

Regarding claims 25-33, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is also non-obvious. MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 24 is in condition for allowance. Applicants submit that claims 25-33 are therefore allowable by virtue of their

dependence on an allowable independent claim, as well as by virtue of the features recited therein. Applicants therefore respectfully request withdrawal of the rejections and allowance of these claims.

New claim 34 recites a process combination including forming at least one gate electrode over a substrate, forming a first silicon oxide layer, a silicon nitride layer, and a second silicon oxide layer, and etching the first and second silicon oxide films and the silicon nitride film to form a two-part spacer, wherein the spacer includes “a first L-shaped part abutting the substrate and a sidewall of the gate electrode, and a second L-shaped part nested in the first L-shaped part.” By analogy to the discussion above for claim 1, *Chern, Laxman* and *Miles*, taken together, cannot obviate this claim because they do not disclose, teach or suggest every element and limitation of the claim. Applicants submit that new claim 34 is therefore allowable and respectfully request withdrawal of the rejection.

Regarding claims 35-41, if an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is also non-obvious. MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). As discussed above, claim 34 is in condition for allowance. Applicants submit that claims 35-41 are therefore allowable by virtue of their dependence on an allowable independent claim, as well as by virtue of the features recited therein. Applicants therefore respectfully request withdrawal of the rejections and allowance of these claims.

Conclusion

Given the above amendments and accompanying remarks, all claims pending in the application are in condition for allowance. If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to allowance of the claims, the

Examiner is requested to specifically point out where such teaching may be found.
Further, if there are any informalities or questions that can be addressed via telephone, the
Examiner is encouraged to contact the undersigned attorney at (206) 292-8600.

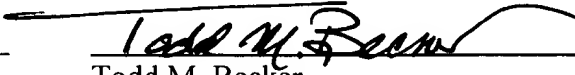
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Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 2-3-06



Todd M. Becker
Attorney for Applicant(s)
Registration No. 43,487

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Boulevard, Seventh Floor
Los Angeles CA 90025-1030
Phone: 206-292-8600
Facsimile: 206-292-8606

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